United Nations A/56/908–S/2002/414

General Assembly
Security Council

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General Assembly
Fifty-sixth session
Agenda item 42
The situation in the Middle East

Security Council
Fifty-seventh year

Letter dated 12 April 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to transmit to you herewith a statistical table showing the number of Israeli violation committed during the month of March 2002 (see annex) and to provide information on Israeli acts of aggression and violations of Lebanon's airspace and territorial waters between 30 March and 5 April 2002.

Aerial violations

Between 1313 and 1400 hours on 30 March 2002 two Israeli warplanes overflew Hasbayya district and circled over the towns of Hasbayya and Dayr Mimas, thus violating Lebanese airspace.

Between 1848 and 2030 hours on 3 April 2002 two Israeli warplanes overflew the Shab`a farmlands and circled over them, thus violating Lebanese airspace.

Between 1938 and 2130 hours on 3 April 2002 an Israeli reconnaissance aircraft flew over the sea off Damur and circled between Damur and Beirut, thus violating Lebanese airspace.

Between 2108 and 2135 hours on 3 April 2002 four Israeli aircraft overflew the Shab`a and Kafr Shuba areas. Between 2200 and 2312 hours a reconnaissance aircraft overflew the Yarun area heading for Rumaysh, thus violating Lebanese airspace.

Between 0350 and 0505 hours on 4 April 2002 an Israeli reconnaissance aircraft flew over the sea west of Naqurah at a distance of 3 nautical miles offshore, thus violating Lebanese airspace.

Between 1003 and 1027 hours on 5 April 2002 two Israeli warplanes flew over the sea off Shikka heading for Beirut and circled between Beirut and Shikka, thus violating Lebanese airspace.

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Between 1200 and 1310 hours on 5 April 2002 two Israeli warplanes flew over the sea off Tyre heading for the South and circled over parts of the South as far as the Damur area, thus violating Lebanese airspace.

Between 1408 and 1435 hours on 5 April 2002 three Israeli warplanes flew over Naqurah heading north for Beirut and circled over parts of the Shuf and the South, thus violating Lebanese airspace.

Between 1500 and 1530 hours on 5 April 2002 two Israeli warplanes flew over Alma al-Sha`b heading north for Beirut and circled between Beirut and the South, thus violating Lebanese airspace.

Between 1900 and 2025 hours on 5 April 2002 two Israeli warplanes flew over the Kafr Killa area and circled over Kafr Killa, Dayr Mimas and Kafr Shuba, thus violating Lebanese airspace.

Attacks and ground and air bombardment

Between 1230 and 1340 hours on 30 March 2002 Israeli enemy forces fired 126 artillery shells towards the Salamiyah and Ibl al-Qamh area and hostile warplanes fired 10 missiles in the Kafr Shuba and Sawwanah hill areas. Two women were lightly wounded.

Between 2145 and 2358 hours on 31 March 2002 Israeli enemy forces fired some 1,000 light-weapons rounds and 12 tank shells. A helicopter belonging to the same forces fired a missile at an area in the Ayta al-Sha`b vicinity.

Between 1640 and 1730 hours on 2 April 2002 Israeli enemy forces fired some 450 light-weapons rounds and 66 mortar rounds and 155-mm artillery shells from their positions towards an area north-east of Kafr Shuba and Hilta.

These Israeli attacks and violations, which targeted Lebanon's territory and its airspace and territorial waters, confirm that Israel is continuing its provocations and outrages against Lebanon. They are in flagrant violation of Security Council resolution 425 (1978) and of Lebanon's sovereignty, and they may pose a threat to security and stability in the region.

I should be grateful if you would have this letter circulated as a document of the General Assembly, under agenda item 42, and of the Security Council.

(*Signed*) Houssam Asaad **Diab**
Chargé d'affaires a.i.

Annex

Summary of information on Israeli violations during the month of March 2002

In the air				*At sea*	*On the ground*			*Total*	*Remarks*
					Military attacks	*Field violations*	*Infringements*		
Jet fighters	Reconnaissance aircraft	Helicopters	Total	Violations of territorial waters and launching of flares	Air raids and bombardment of military positions and important centres	Artillery bombardments, shooting and placement of installations inside Lebanese territory	Threats and drawing of weapons, earthmoving and placement of concertina wire inside Lebanese territory		
12	12	2	26	2	2	1	-	31	Total violations in previous month: 31
									Table does not include violations in the occupied Shab`a farmlands and the Kafr Shuba hills area, a zone of military operations

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Measures to eliminate international terrorism

Security Council
Fifty-seventh year

Letter dated 12 April 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General

I wish to draw your attention to the latest attack in the ongoing campaign of Palestinian terrorism directed against the citizens of Israel.

This afternoon, a Palestinian suicide bomber detonated powerful explosive charges at a crowded bus stop near the bustling Jerusalem market of Mahane Yehuda. The blast occurred at an hour when the market was overflowing with people purchasing groceries in anticipation of the start of the Jewish Sabbath. At present, six people are reported killed in the attack and over 60 others are wounded. The Al Aksa Brigades, the terrorist wing of Palestinian Authority Chairman Yasser Arafat's Fatah faction, claimed responsibility for the bombing.

Earlier today, a Palestinian terrorist killed an Israeli and a Palestinian, and wounded four other Israelis and three other Palestinians, in a shooting spree at the Erez crossing point at the northern end of the Gaza Strip. The gunman, who was reported to have posed as a worker at the terminal, opened fire with an assault rifle he hid under his coat, and hurled at least one fragmentation grenade at Israelis and Palestinians in the vicinity, shortly before 7 a.m. (local time). Islamic Jihad took responsibility for the attack.

This attack is the latest incident in the continuing campaign of Palestinian terrorism that has been detailed in letters dated 26 March 2002, 18 March 2002 (A/56/880-S/2002/293), 14 March 2002 (A/56/876-S/2002/280), 11 March 2002 (A/56/867-S/2002/257), 8 March 2002 (A/56/864-S/2002/252), 5 March 2002 (A/56/857-S/2002/233), 4 March 2002 (A/56/854-S/2002/222), 27 February 2002 (A/56/843-S/2002/208), 20 February 2002 (A/56/828-S/2002/185), 19 February 2002 (A/56/824-S/2002/174), 11 February 2002 (A/56/819-S/2002/164), 8 February 2002 (A/56/814-S/2002/155), 28 January 2002 (A/56/798-S/2002/126), 22 January 2002 (A/56/788-S/2002/104), 18 January 2002 (A/56/781-S/2002/86), 16 January 2002 (A/56/774-S/2002/73), 11 January 2002 (A/56/771-S/2002/47), 4 January 2002 (A/56/766-S/2002/25), 13 December 2001 (A/56/706-S/2001/1198), 4 December 2001 (A/56/678-S/2001/1150), 30 November 2001 (A/56/670-S/2001/1141), 27 November

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2001 (A/56/663-S/2001/1121), 12 November 2001 (A/56/617-S/2001/1071), 5 November 2001 (A/56/604-S/2001/1048), 24 October 2001 (A/56/506-S/2001/1011), 19 October 2001 (A/56/492-S/2001/990), 17 October 2001 (A/56/483-S/2001/975), 8 October 2001 (A/56/450-S/2001/948), 5 October 2001 (A/56/444-S/2001/943), 3 October 2001 (A/56/438-S/2001/938), 24 September 2001 (A/56/406-S/2001/907), 20 September 2001 (A/56/386-S/2001/892), 17 September 2001 (A/56/367-S/2001/875), 7 September 2001 (A/56/346-S/2001/858), 4 September 2001 (A/56/331-S/2001/840), 30 August 2001 (A/56/325-S/2001/834), 27 August 2001 (A/56/324-S/2001/825), 13 August 2001 (A/56/294-S/2001/787), 9 August 2001 (A/56/286-S/2001/780), 8 August 2001 (A/56/280-S/2001/775), 6 August 2001 (A/56/272-S/2001/768), 27 July 2001 (A/56/225-S/2001/743), 26 July 2001 (A/56/223-S/2001/737), 17 July 2001 (A/56/201-S/2001/706), 13 July 2001 (A/56/184-S/2001/696), 3 July 2001 (A/56/138-S/2001/662), 2 July 2001 (A/56/131-S/2001/656), 21 June 2001 (A/56/119-S/2001/619), 19 June 2001 (A/56/98-S/2001/611), 18 June 2001 (A/56/97-S/2001/604), 13 June 2001 (A/56/92-S/2001/585), 11 June 2001 (A/56/91-S/2001/580), 4 June 2001 (A/56/85-S/2001/555), 30 May 2001 (A/56/81-S/2001/540), 25 May 2001 (A/56/80-S/2001/524), 18 May 2001 (A/56/78-S/2001/506), 11 May 2001 (A/56/72-S/2001/473), 9 May 2001 (A/56/69-S/2001/459), 1 May 2001 (A/55/924-S/2001/435), 23 April 2001 (A/55/910-S/2001/396), 16 April 2001 (A/55/901-S/2001/364), 28 March 2001 (A/55/863-S/2001/291), 27 March 2001 (A/55/860-S/2001/280), 26 March 2001 (A/55/858-S/2001/278), 19 March 2001 (A/55/842-S/2001/244), 5 March 2001 (A/55/821-S/2001/193), 2 March 2001 (A/55/819-S/2001/187), 14 February 2001 (A/55/787-S/2001/137), 13 February 2001 (A/55/781-S/2001/132), 2 February 2001 (A/55/762-S/2001/103), 25 January 2001 (A/55/748-S/2001/81), 23 January 2001 (A/55/742-S/2001/71), 28 December 2000 (A/55/719-S/2000/1252), 22 November 2000 (A/55/641-S/2000/1114), 20 November 2000, (A/55/634-S/2000/1108) and 2 November 2000 (A/55/540-S/2000/1065).

Today's bombing comes just hours after the United States Secretary of State arrived in Israel in an attempt to assist the parties to implement a meaningful ceasefire, an initiative with which Israel has pledged to fully cooperate. In this regard, today's attack follows a familiar pattern whereby an American initiative to bring about a ceasefire is embraced by Israel but met with a surge in terrorist bombings by the Palestinians. American envoy General Anthony Zinni, whose bridging proposals have been accepted by Israel but rejected repeatedly by the Palestinian side, was similarly greeted with a spate of suicide attacks when he first arrived in the region in December.

Today's attack further underscores the necessity to implement all aspects of resolution 1402 (2002) together, including a meaningful ceasefire, bolstered by genuine steps on the part of the Palestinians to end terrorism and incitement and to cooperate with General Zinni in the implementation of the Tenet plan and the Mitchell report. In the absence of a full and faithful implementation of resolution 1402 (2002), including all the necessary steps required of both sides, we will be unable to create the proper conditions under which the parties can return to a political process as called for by the Security Council.

And yet, despite clear calls from the international community to end the terrorism and the violence, Palestinian terrorists have continued to attempt attacks on Israeli civilians, with the full support of the Palestinian leadership. The only actor in the region actually working to prevent future terrorist attacks is the Israeli

security forces, which have been instrumental in protecting civilian lives and preventing the number of casualties from rising even higher. In recent days, numerous attempted attacks have been thwarted by Israeli forces, demonstrating that Israel's counter-terrorism operations are the only factor preventing future acts of terrorism.

Israel holds the Palestinian leadership fully responsible for today's attack in the light of its documented support for terrorism, its continuing attempts to use the media to incite hatred and glorify suicide, and its total refusal even to condemn terrorist attacks on Israeli civilians. While members of the international community have condemned terrorism in the strongest terms, Chairman Arafat continues to speak of "martyrdom" from his Ramallah compound, where he is providing shelter to wanted terrorists responsible for perpetrating attacks against civilians.

Israel is exercising its right of self-defence, as any State would do in the face of a similar and unrelenting terrorist threat. This is a right recognized not only in the Charter of the United Nations but in Security Council resolutions 1368 (2001) and 1373 (2001), which refer to terrorism as a threat to peace and security. And while Israel exercises its right and duty to protect its citizens, it has not forgotten its obligations to protect the lives of innocent Palestinian civilians.

Israel reiterates its call on the international community to condemn Palestinian terrorism in strongest terms and to impress upon the Palestinian people and leadership that terrorism has no place in the civilized world and that the employment of such heinous tactics will not be permitted to advance the Palestinian cause.

I should be grateful if you would arrange to have the text of this letter circulated as a document of the General Assembly, under agenda item 166, and of the Security Council.

(*Signed*) Aaron **Jacob**
Chargé d'affaires a.i.

United Nations A/56/910

General Assembly

Distr.: General
16 April 2002
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Fifty-sixth session
Agenda item 164
Establishment of the International Criminal Court

Note verbale dated 12 April 2002 from the Permanent Mission of Spain to the United Nations addressed to the Secretary-General

The Permanent Mission of Spain to the United Nations presents its compliments to the Secretary-General of the United Nations and, further to its note verbale dated 11 April 2002 requesting the publication of texts as documents of the Preparatory Committee for the International Criminal Court, requests that the enclosed statement be circulated as a document of the General Assembly, under agenda item 164.

The Permanent Mission of Spain to the United Nations takes this opportunity to convey to the Secretary-General of the United Nations the renewed assurances of its highest consideration.

02-33377 (E) 160402 160402

Annex to the note verbale dated 12 April 2002 from the Permanent Mission of Spain to the United Nations addressed to the Secretary-General

[Original: English, French and Spanish]

Statement concerning the creation of the International Criminal Court issued on 11 April 2002 by the Presidency of the European Union on behalf of the European Union

Today, at United Nations Headquarters in New York, the requirement of 60 ratifications for the entry into force of the Rome Statute, creating the International Criminal Court, has been met. The European Union salutes this event, which is a step of great importance for the defence of fundamental rights of human beings and for the affirmation of law and justice in the world.

The European Union congratulates those States whose ratifications have made possible the establishment of the International Criminal Court and makes an appeal to other States to join the Statute so that the Court promptly reaches universality.

The European Union, which has actively contributed to the drafting, development and entry into force of the Rome Statute, reaffirms its commitment to support the early operation of the International Criminal Court in its seat at The Hague.

The International Criminal Court, the first great institution to come to life in the new millennium, will be an essential component in the struggle against impunity for acts of genocide, crimes against humanity and war crimes, which are serious crimes of concern to the international community. It deserves the wholehearted support of all of us.

United Nations A/56/910*

General Assembly

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18 April 2002
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Original: Spanish

Fifty-sixth session
Agenda item 164
Establishment of the International Criminal Court

Note verbale dated 12 April 2002 from the Permanent Mission of Spain to the United Nations addressed to the Secretary-General

The Permanent Mission of Spain to the United Nations presents its compliments to the Secretary-General of the United Nations and, further to its note verbale dated 11 April 2002 requesting the publication of texts as documents of the Preparatory Committee for the International Criminal Court, requests that the enclosed statement be circulated as a document of the General Assembly, under agenda item 164.

The Permanent Mission of Spain to the United Nations takes this opportunity to convey to the Secretary-General of the United Nations the renewed assurances of its highest consideration.

* Reissued for technical reasons.

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Annex to the note verbale dated 12 April 2002 from the Permanent Mission of Spain to the United Nations addressed to the Secretary-General

[Original: English, French and Spanish]

Statement concerning the creation of the International Criminal Court issued on 11 April 2002 by the Presidency of the European Union on behalf of the European Union

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The International Criminal Court, the first great institution to come to life in the new millennium, will be an essential component in the struggle against impunity for acts of genocide, crimes against humanity and war crimes, which are serious crimes of concern to the international community. It deserves the wholehearted support of all of us.

The Central and Eastern European countries associated with the European Union, the associated countries Cyprus and Malta, and the EFTA countries members of the European Economic Area align themselves with this statement.

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Security Council

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8 April 2002

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General Assembly
Fifty-sixth session
Agenda items 25, 41, 42 and 166

United Nations Year of Dialogue among Civilizations

Question of Palestine

The situation in the Middle East

Measures to eliminate international terrorism

Security Council
Fifty-seventh year

Letter dated 4 April 2002 from the Permanent Representative of Mali to the United Nations addressed to the Secretary-General

I have the honour, in my capacity as Chairman of the Islamic Group, to transmit herewith the texts of the Statement on the Situation in the Occupied Palestinian Territories and the Kuala Lumpur Declaration on International Terrorism, adopted by the Islamic Conference of Foreign Ministers at its extraordinary session on terrorism, held in Kuala Lumpur, Malaysia, from 1 to 3 April 2002 (see annexes).

I should be grateful if you would have the text of the present letter and its annexes circulated as a document of the General Assembly, under agenda items 25, 41, 42 and 166, and of the Security Council.

(*Signed*) Moctar **Ouane**
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of the Republic of Mali
to the United Nations

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BEST COPY AVAILABLE

Annexes to the letter dated 4 April 2002 from the Permanent Representative of Mali to the United Nations addressed to the Secretary-General

[Original: Arabic, English and French]

Annex I

**THE STATEMENT
ON THE
SITUATION IN THE OCCUPIED PALESTINIAN TERRITORIES
BY THE
EXTRAORDINARY SESSION OF THE
ISLAMIC CONFERENCE OF FOREIGN MINISTERS
ON TERRORISM**

The Ministers closely examined the grave conditions prevailing in the occupied Palestinian territories and reaffirmed all the Islamic resolutions on Palestine, Al-Quds Al-Sharif and the Arab-Israeli conflict. The Conference strongly condemned the recent Israeli storming of Palestinian cities and villages, as well as the Headquarters of the Palestinian Presidency and endangering the life of President Arafat and of the members of the Palestinian leadership. The Conference considered this assault a violation of all international norms and laws and the culmination of state terrorism as practised by Israel.

The Conference, while cautioning Israel of the dire consequences of the attack on the Palestinian President, requests the UN Security Council, the two sponsors of the peace process and the European Union to assume their responsibility for immediately stopping the Israeli aggression and withdrawing the Israeli troops from all the occupied Arab and Palestinian territories.

The Conference, while lauding with great pride the steadfastness of the Palestinian people under the leadership of President Yasser Arafat and paying tribute to its valiant resistance and its blessed intifada, reaffirms the continuing support of the Islamic States for the Palestinian People's struggle for the liquidation of the Israeli occupation, the restoration of their inalienable national rights, including the right of refugees to return to their homes, the right to self-determination and to establish their sovereign state with Al-Quds Al-Sharif as its capital.

The Conference, while condemning the state terrorism exercised by Israel and demonstrated by the assassination of Palestinian leaders, citizens, security personnel and policemen, the destruction of the Palestinian National Authority institutions and infrastructures as well as the imposition of the blockade on the Palestinian people and its leadership, requests the international community to take immediate action to stop the Israeli aggression and illegitimate practices, and lift the blockade.

The Conference also requests the UN Security Council to take the necessary measures to provide international protection for the Palestinian people and apply deterrent sanctions against Israel.

Israel's terrorist actions and aggressive practices, posing a threat to international peace and security, and dragging the region towards an all-out war, necessitate immediate action by the UN Security Council to apply Chapter VII of the UN Charter.

The Conference welcomes the Arab peace initiative taken by the Fourteenth Arab Summit Conference in Beirut, and requests the Security Council to put in place a mechanism for implementing that initiative in its entirety according to the relevant resolutions of the international legitimacy.

Kuala Lumpur on 1 April 2002

Annex II

Following is the Kuala Lumpur Declaration on International Terrorism, adopted on 3 April 2002, at the Extraordinary Session of the Islamic Conference of Foreign Ministers, held in Kuala Lumpur, Malaysia:

Kuala Lumpur Declaration On International Terrorism

1. In the name of Islamic solidarity, we, the Foreign Ministers of the Organization of the Islamic Conference (OIC), have gathered in Kuala Lumpur to state our collective resolve to combat terrorism and to respond to developments affecting Muslims and Islamic countries in the aftermath of the 11th September attacks;

2. We recall earlier measures adopted by the OIC in combating international terrorism, including the Code of Conduct for Combating International Terrorism, the OIC Convention on Combating International Terrorism, which inter alia provides a definition of terrorism, and the Declaration of the 9th Extraordinary Session of ICFM as well as relevant OIC resolutions on combating international terrorism;

3. We take note of the important inaugural statement by The Honorable Prime Minister of Malaysia, Dato' Seri Dr Mahathir bin Mohamad, which constitutes an official document of this Extraordinary Session;

4. We reaffirm our commitment to the principles and true teachings of Islam which abhor aggression, value peace, tolerance and respect as well as prohibiting the killing of innocent people;

5. We reject any attempt to link Islam and Muslims to terrorism as terrorism has no association with any religion, civilization or nationality;

6. We reiterate that preventive action taken to combat terrorism should not result in ethnic or religious profiling or the targeting of a particular community;

7. We unequivocally condemn acts of international terrorism in all its forms and manifestations, including state terrorism, irrespective of motives, perpetrators and victims as terrorism poses a serious threat to international peace and security and is a grave violation of human rights;

8. We reiterate the principled position under international law and the Charter of the United Nations of the legitimacy of resistance to foreign aggression and the struggle of peoples under colonial or alien domination and foreign occupation for national liberation and self-determination. In this context, we underline the urgency for an internationally agreed definition of terrorism, which differentiates such legitimate struggles from acts of terrorism;

9. We also underline the imperative of respect for international humanitarian law protecting civilian populations;

10. We reject any attempt to link terrorism to the struggle of the Palestinian people in the exercise of their inalienable right to establish their independent state with Al-Quds Al-Sharif as its capital;

11. We reject any attempt to associate Islamic states or Palestinian and Lebanese resistance with terrorism which constitutes an impediment to the global struggle against terrorism;

12. We condemn Israel for its escalating military campaign against the Palestinian people, including the daily brutalization and humiliation of its civilians, resulting in mounting casualties, strangulation of the Palestinian economy, systematic and indiscriminate destruction of houses and residential facilities as well as infrastructure, institutions and structures of the Palestinian National Authority;

13. We emphasize the importance of addressing the root causes of international terrorism, convinced that the war against terrorism will not succeed if the environment that breeds terrorism, including foreign occupation, injustice and exclusion, is allowed to thrive;

14. We reaffirm our commitment to international action in combating international terrorism undertaken in conformity with the principles of the Charter of United Nations, including the principles of non-intervention in internal affairs and respect for sovereignty and territorial integrity, as well as international law and relevant international conventions and instruments;

15. We reject any unilateral action taken against any Islamic country under the pretext of combating international terrorism, as this will undermine global cooperation against terrorism;

16. We reiterate our call for the convening of an international conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations;

17. We thus reaffirm our commitment to action at national level and through international cooperation in combating terrorism and agree to the following Plan of Action:

Plan of Action

1. We hereby establish a 13-member open-ended Ministerial-level OIC Committee on International Terrorism with the mandate to formulate recommendations on the following matters:

1.1 measures to strengthen OIC cooperation and coordination in combating international terrorism;

1.2 ways of expediting the implementation of the OIC Code of Conduct and the Convention on Combating International Terrorism;

1.3 measures in projecting the true image of Islam. These include holding seminars and workshops to promote a better understanding of Islam and its principles;

1.4 measures in strengthening dialogue and understanding among different civilizations, cultures and faiths, for instance, by building on initiatives such as the United Nations Dialogue Among Civilizations and the OIC-EU Joint Forum on Harmony and Civilization;

1.5 other measures, as appropriate and in accordance with the Charter of the OIC as well as Summit and ICFM resolutions, in response to developments affecting Muslims and Islam arising from action to combat terrorism.

We agree that the Committee will present its recommendations to member states and to the ICFM for consideration and action. The Committee is mandated to study the work of other international organizations in matters related to international terrorism. Member countries of the Committee are mandated to contribute to the work of the OIC Group in New York in matters related to international terrorism.

2. We will work towards the early conclusion of a Comprehensive Convention on International Terrorism. In this regard, we reiterate our support to the positions adopted by OIC member states at the ongoing negotiations on the said Convention.

3. We will work towards an internationally agreed definition of terrorism and terrorist acts, which shall be differentiated from the legitimate struggle and resistance of peoples under colonial or alien domination and foreign occupation for national liberation and self-determination, for incorporation into the draft Comprehensive Convention on International Terrorism.

4. We will work towards the early convening of an international conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations.

5. We will, at all relevant multilateral fora, maintain a united front in upholding the principled position on the legitimacy of the struggle of peoples under colonial or alien domination and foreign occupation for national liberation and self-determination.

6. We will continue to work through the United Nations Security Council and directly with countries concerned to put an end to the escalating Israeli aggression against the Palestinian people, provide the necessary international protection for the Palestinians and undertake efforts to secure a just, comprehensive and durable solution to the Middle East conflict based on United Nations Security Council Resolutions 242, 338 and 425, United Nations General Assembly Resolution 194 and the principle of land for peace. In this context, we will exert every effort to realize the Arab Peace Initiative adopted by the 14th Arab Summit in Beirut on 28 March 2002. Further, we will continue to provide political, material and moral support and assistance to the Palestinians.

7. We will continue to work with other countries and support efforts of the international community in combating international terrorism undertaken under the auspices of the United Nations in a transparent and impartial manner and in conformity with the principles of the Charter of the United Nations, international law and relevant international conventions and instruments. These include implementing relevant United Nations Security Council Resolutions, particularly United Nations Security Council Resolution 1373, as well as expediting our accession to or ratification of relevant international Conventions and Protocols relating to terrorism.

8. We will make every effort at the international level to promote a collective security regime responding to security and development needs of all countries as well as to promote conducive political, socio-economic environment that will stifle support for terrorist activities and eliminate the causes of terrorist acts.

9. We will, at the national level, continue to pursue policies and strategies aimed at enhancing the well-being and prosperity of our peoples, as well as addressing and resolving domestic factors that contribute to terrorism.

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Security Council

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General Assembly
Fifty-sixth session
Agenda item 166
Measures to eliminate international terrorism

Security Council
Fifty-seventh year

Letter dated 10 April 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General

I wish to draw your attention to the latest incident in the ongoing campaign of Palestinian terrorism directed against the citizens of Israel.

At approximately 7.15 a.m. (local time) this morning, a Palestinian suicide bomber detonated powerful explosive charges aboard a public bus near the Yagur Junction in northern Israel, south of the city of Haifa. According to witnesses, the blast caused the bus to fly several metres into the air and tore a large hole through the top and front of the vehicle. The terrorist packed the bomb with nails and ball bearings to increase the lethality of the charge and the pain and suffering of the victims. At this time, we know that 8 Israelis have been killed and at least 17 others wounded. The terrorist organization Hamas claimed responsibility for the attack.

This attack is the latest incident in the campaign of Palestinian terrorism that has been detailed in my letters dated 26 March 2002, 18 March 2002 (A/56/880-S/2002/293), 14 March 2002 (A/56/876-S/2002/280), 11 March 2002 (A/56/867-S/2002/257), 8 March 2002 (A/56/864-S/2002/252), 5 March 2002 (A/56/857-S/2002/233), 4 March 2002 (A/56/854-S/2002/222), 27 February 2002 (A/56/843-S/2002/208), 20 February 2002 (A/56/828-S/2002/185), 19 February 2002 (A/56/824-S/2002/174), 11 February 2002 (A/56/819-S/2002/164), 8 February 2002 (A/56/814-S/2002/155), 28 January 2002 (A/56/798-S/2002/126), 22 January 2002 (A/56/788-S/2002/104), 18 January 2002 (A/56/781-S/2002/86), 16 January 2002 (A/56/774-S/2002/73), 11 January 2002 (A/56/771-S/2002/47), 4 January 2002 (A/56/766-S/2002/25), 13 December 2001 (A/56/706-S/2001/1198), 4 December 2001 (A/56/678-S/2001/1150), 30 November 2001 (A/56/670-S/2001/1141), 27 November 2001 (A/56/663-S/2001/1121), 12 November 2001 (A/56/617-S/2001/1071), 5 November 2001 (A/56/604-S/2001/1048), 24 October 2001 (A/56/506-S/2001/1011), 19 October 2001 (A/56/492-S/2001/990), 17 October 2001 (A/56/483-S/2001/975), 8 October 2001 (A/56/450-S/2001/948), 5 October 2001 (A/56/444-S/2001/943), 3 October 2001 (A/56/438-S/2001/938), 24 September 2001 (A/56/406-S/2001/907), 20 September 2001 (A/56/386-S/2001/892), 17 September 2001 (A/56/367-S/2001/875), 7 September 2001 (A/56/346-S/2001/858), 4 September 2001

(A/56/331-S/2001/840), 30 August 2001 (A/56/325-S/2001/834), 27 August 2001 (A/56/324-S/2001/825), 13 August 2001 (A/56/294-S/2001/787), 9 August 2001 (A/56/286-S/2001/780), 8 August 2001 (A/56/280-S/2001/775), 6 August 2001 (A/56/272-S/2001/768), 27 July 2001 (A/56/225-S/2001/743), 26 July 2001 (A/56/223-S/2001/737), 17 July 2001 (A/56/201-S/2001/706), 13 July 2001 (A/56/184-S/2001/696), 3 July 2001 (A/56/138-S/2001/662), 2 July 2001 (A/56/131-S/2001/656), 21 June 2001 (A/56/119-S/2001/619), 19 June 2001 (A/56/98-S/2001/611), 18 June 2001 (A/56/97-S/2001/604), 13 June 2001 (A/56/92-S/2001/585), 11 June 2001 (A/56/91-S/2001/580), 4 June 2001 (A/56/85-S/2001/555), 30 May 2001 (A/56/81-S/2001/540), 25 May 2001 (A/56/80-S/2001/524), 18 May 2001 (A/56/78-S/2001/506), 11 May 2001 (A/56/72-S/2001/473), 9 May 2001 (A/56/69-S/2001/459), 1 May 2001 (A/55/924-S/2001/435), 23 April 2001 (A/55/910-S/2001/396), 16 April 2001 (A/55/901-S/2001/364), 28 March 2001 (A/55/863-S/2001/291), 27 March 2001 (A/55/860-S/2001/280), 26 March 2001 (A/55/858-S/2001/278), 19 March 2001 (A/55/842-S/2001/244), 5 March 2001 (A/55/821-S/2001/193), 2 March 2001 (A/55/819-S/2001/187), 14 February 2001 (A/55/787-S/2001/137), 13 February 2001 (A/55/781-S/2001/132), 2 February 2001 (A/55/762-S/2001/103), 25 January 2001 (A/55/748-S/2001/81), 23 January 2001 (A/55/742-S/2001/71), 28 December 2000 (A/55/719-S/2000/1252), 22 November 2000 (A/55/641-S/2000/1114), 20 November 2000, (A/55/634-S/2000/1108) and 2 November 2000 (A/55/540-S/2000/1065).

Today's attack serves to reinforce the necessity for Israeli withdrawal to be implemented within the full context of resolution 1402 (2002) — including a meaningful ceasefire, reciprocal Palestinian steps to end terrorism and incitement, and full cooperation with General Zinni's proposals for the implementation of Tenet and Mitchell, which the Palestinian side has yet to accept. Absent these other crucial elements, Israeli withdrawal alone will not lead to the series of steps culminating in a return to a peaceful political process, as envisaged by the Security Council.

Even as the international community has undertaken intensive efforts to reduce tensions in the region, Palestinian terrorists continue to seek ways to attack Israeli civilians. Only concerted action by Israeli security forces has prevented the number of deadly terrorist attacks from rising to even higher levels. It should be recalled that these actions were undertaken only after a series of deadly Palestinian suicide attacks that claimed the lives of scores of innocent Israeli men, women and children.

Even more disturbing is the continuing role of the Palestinian leadership in inciting violence among the population and providing terrorist organizations with the logistical and financial support they need to carry out attacks. Materials discovered in the Ramallah compound of Palestinian Authority Chairman Yasser Arafat clearly document the extent of collusion between Palestinian Authority officials, including the Chairman himself, and known terrorists and terrorist organizations. These materials were discovered amidst a slew of deadly weaponry that is illegal for the Palestinian Authority to possess under signed agreements reached with Israel. Even today, Chairman Arafat speaks not of peace and reconciliation, but of his aspiration to "martyrdom". For these reasons, we hold Chairman Arafat and the Palestinian Authority fully responsible for the continuation of terrorist attacks against Israel.

At this critical moment, it is more important than ever for the international community to express its complete and total rejection of Palestinian suicidal

terrorism, in light of the threat it poses not only to Israeli lives and our hopes for peace in the region, but also to the entire civilized world. Those who would countenance such abhorrent methods must hear from a unified and resolute world that these tactics will not advance their cause, nor will it lead to the capitulation of their victims.

I should be grateful if you would arrange to have the text of this letter circulated as a document of the General Assembly, under agenda item 166, and of the Security Council.

(*Signed*) Aaron **Jacob**
Chargé d'affaires a.i.

United Nations A/56/913–S/2002/374

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Security Council

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General Assembly
Fifty sixth session
Agenda item 166
Measures to eliminate international terrorism

Security Council
Fifty-seventh year

Letter dated 10 April 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General

Despite the urgent calls of the Israeli Government, and members of the international community, the situation along the Blue Line continues to deteriorate.

Yesterday, Hizbullah terrorists continued their cross-border attacks against Israel for the twelfth consecutive day, firing anti-aircraft rockets, Katyusha rockets, and mortar shells at a number of civilian and military targets in northern Israel. Israeli outposts in the Mount Dov and Mount Hermon areas came under fire, anti-aircraft fire was directed at civilians in the northern Israeli town of Shlomi, and a Katyusha rocket landed in the village of Ein Kuniya, causing serious damage. Residents of the northern Israeli city of Kiryat Shmona and the town of Shlomi were forced to spend Monday night in bomb shelters following shelling by Hizbullah.

This morning, the attacks continued with anti-tank missiles, mortars, artillery and light weapons fire being directed at Israeli Defence Forces (IDF) positions in the area of Mount Dov and Mount Hermon, and near civilians in the village of Majdel Shams. Hizbullah terrorists also attempted to breach an Israeli position near Mount Dov, approaching the post under cover of light weapons and missile fire, but were repelled by Israeli troops.

These unprovoked and illegal attacks across our northern border, which pose a serious threat to international peace and security, are a matter of urgent concern to which we have drawn attention in previous letters dated 3 April 2002 (A/56/889-S/2002/348), 2 April 2002 (A/56/898-S/2002/345), 21 March 2002 (A/56/884-S/2002/301), 24 January 2002 (A/56/793-S/2002/115), 17 January 2002 (A/56/778-S/2002/79), 24 October 2001 (A/56/507-S/2001/1012), 5 October 2001 (A/56/443-S/2001/942), 6 July 2001 (A/56/161-S/2001/673), 16 April 2001 (S/2001/367), 16 February 2001 (A/55/792-S/2001/142), 6 February 2001 (A/55/767-S/2001/111), 26 November 2000 (S/2000/1121), 23 October 2000 (S/2000/1011), 19 October 2000 (S/2000/1002) and 7 October 2000 (S/2000/969).

For several weeks now, and indeed since Israel's withdrawal from South Lebanon in May 2000, Israel has appealed to the international community and the

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United Nations to take steps to defuse the dangerous situation along our northern border. The Secretary-General has made repeatedly clear that Hizbullah's attacks are illegal and constitute a threat to peace and security. The Secretary-General further stated that the Government of Lebanon bears full responsibility for cross-border attacks that are launched from its territory. Lebanon has failed to fulfil its obligations under international law and Security Council resolutions 425 (1978), 426 (1978), 1310 (2000), 1337 (2001), 1365 (2001) and 1391 (2002), which call for the restoration of effective Lebanese authority in the area. The Government of Lebanon is also in violation of Security Council resolution 1373 (2001) and established principles of international law, which clearly calls upon all States to refrain from providing any support, whether active or passive, to all persons or entities involved in terrorist acts, and to ensure that their territory is not used as a base for cross-border attacks.

Nevertheless, Hizbullah, with the continued support of the Governments of Lebanon, Syria and Iran, continues to violate the Blue Line. It should be noted that Hizbullah is attacking Israel from positions situated in close proximity to United Nations Interim Force in Lebanon (UNIFIL) positions and Lebanese towns and villages. This tactic is a familiar one that Hizbullah has regularly employed in the past and which violates the principles of international humanitarian law and endangers the lives of UNIFIL personnel and other civilians in the area.

In the face of this unprovoked and illegal aggression, Israel is demonstrating the utmost restraint in an attempt to prevent the situation in the area from further spiralling out of control, and is exhausting all political and diplomatic options at its disposal, while reserving its right to self-defence in accordance with the Charter of the United Nations.

The international community must be fully aware that the situation along the Blue Line is exceedingly dangerous. In addition to belligerent statements from Hizbullah's leaders — including a recent statement by Hizbullah spiritual leader Muhammad Hussein Fadlallah threatening to fire Katyusha rockets at the Israeli city of Haifa — we have received reports of a massive deployment of Hizbullah fighters in close proximity to the Blue Line. Fadlallah's statement follows a similar statement from Hizbullah Secretary-General Hassan Nasrallah threatening to attack Israel "all the way from the [Mediterranean] sea to Mount Hermon". These threats clearly testify to Hizbullah's intention to widen the conflict in the region and ignite a broader confrontation.

Israel again appeals to the international community and the Security Council to act immediately to bring pressure to bear on the Governments that support and encourage Hizbullah — specifically the Governments of Syria, Leganon and Iran, without whose financial, political and logistical support, including the supply of weapons to Hizbullah gunmen, these attacks would not be possible. This is precisely the type of State support for terrorism that Security Council resolution 1373 (2001) is intended to prevent and which these Government have clearly signalled their intention to continue in violation of that resolution.

Israel cannot be expected to tolerate daily attacks with heavy weaponry along its northern border that jeopardize the safety and security of its citizens and spreads terror throughout the population. This situation must immediately be brought under control by compelling the Governments complicit in Hizbullah's activities to order a

halt to these illegal and escalatory attacks, disarm Hizbullah, and restore peace and security to the area.

I should be grateful if you would arrange to have the text of the present letter circulated as a document of the fifty-sixth session of the General Assembly, under agenda item 166, and of the Security Council.

(*Signed*) Aaron **Jacob**
Chargé d'affaires a.i.

United Nations A/56/914–S/2002/418

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General Assembly
Fifty-sixth session
Agenda item 62
Question of Cyprus

Security Council
Fifty-seventh year

Letter dated 12 April 2002 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

Further to my letter of 9 October 2001 (A/56/451-S/2001/953) concerning the unilateral application of the Greek Cypriot administration to join the European Union, I have the honour to transmit herewith a note written by Professor M. Mendelson Q.C., prepared in response to the opinion circulated by the Greek Cypriot side on the same matter (A/56/723-S/2001/1222).

I should be grateful if the text of the present letter and its annex would be circulated as a document of the General Assembly, under agenda item 62, and of the Security Council.

(*Signed*) Ümit **Pamir**
Ambassador
Permanent Representative

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Annex to the letter dated 12 April 2002 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

Note by Professor M. H. Mendelson Q.C. on the application of the Republic of Cyprus to joir the European Union

1. In June 1997 I wrote an Opinion, at the request of the Government of Turkey, on the application by the Greek Cypriot authorities in Cyprus to join the European Union.[1] I came to the conclusion that membership would be contrary to the international obligations of Cyprus and that it would be contrary to the treaty obligations of Greece and the United Kingdom to assist in the acquisition of such membership. In July of the same year I wrote a Supplementary Opinion refuting the argument, which had been raised in some quarters, that the admission of Austria to the European Union was a precedent to the contrary. In October of the same year the Greek Cypriot Government caused to be circulated a Joint Opinion by Professors James Crawford, Gerhard Hafner and Alain Pellet, which *inter alia* sought to contest my views and came to the contrary conclusion.[2] In 2001 I was asked for my reactions to the Joint Opinion. I wrote a Further Opinion dated 12 September 2001, and this was circulated, as UN doc. A/56/451 and S/2001/953 at the request to the Permanent Representative of Turkey to the UN on 9 October 2001. My first two opinions were annexed to my Further Opinion.

2. On 17 November 2001 the same three professors wrote a further Joint Opinion, which was circulated as UN doc. A/556/723 – S/2001/1222. I have been asked to comment on this.

3. There is are no virtually new points in the Further Joint Opinion which I have not already answered in my previous Opinions; and there consequently seems little point in prolonging this war of words. In particular, it would seem to be excessive to require the reader to read the same arguments all over again. Accordingly, I simply wish to make a few brief points.

4. I said in my Further Opinion (paragraph 3) that, although the Joint Opinion was *in substance* a reply to my Opinion, in style it purported to be a general study. I observed that a consequence of this technique was that it "enables some of my arguments to be misdescribed, minimized or omitted. Secondly, it enables the authors to set up 'straw men' – hypothetical arguments against their position not made by me – which they can easily demolish". Exactly the same techniques have been used in the Further Joint Opinion.

5. Paragraph 4 of the Further Joint Opinion contains a serious and misleading elision. It begins by quoting in part some of the key provisions the Treaty of Guarantee. Specifically, the undertaking by Cyprus, in Article I(2), "not to participate, in whole *or in part*, in any *political or economic union* with any State whatsoever [misquoted in the Opinion as 'whatever' – a weaker term][3] or partition of the Island"; and the undertaking, by the Guarantors, Greece, Turkey and the United Kingdom, in Article

[1] Circulated, at the request of the Permanent Representative of Turkey to the UN, on 25 July 1997 as UN document A/51/951-S/1997/585.
[2] 17 October 1997, UN doc. A/52/481-S/1997/805.
[3] In French "quelque Etat ce que soit".

II(2) to prohibit, "so far as concerns them, *any* activity *aimed at* promoting, directly *or indirectly*, either union of Cyprus with any other State or partition of the island". (The italics are mine.) But the Opinion then goes on to say that "'The question is whether the accession of Cyprus to the EU would involve 'union of Cyprus with any other State'". That is by no means the only question, or necessarily even the key one. For under the Treaty of Guarantee it is not just "union of Cyprus with any other State" which is ruled out, but *any* activity *aimed* at *promoting*, directly *or indirectly*, political *or economic* union, with any State whatsoever. This is a considerably lower threshold. It would be enough to show that membership in the EU would contribute even *indirectly and partly*, merely to a *degree* of economic union with Greece and/or other States. And even if we were to confine this to Greece alone, I fail to see how any impartial observer could possibly fail to see that the membership of Cyprus in the EU would contribute, at the very least, to *some measure* of closer economic union (at least) with Greece. Given the geographical proximity of the two countries, the close economic links which already exist between them – but which will necessarily be strengthened by membership – and the close ties of language and culture between the majority population of Cyprus and that of Greece, it seems inconceivable that this should not be so. This also seems to be the view of numerous Greek and Greek Cypriot politicians, who have stated with some satisfaction that the membership of Cyprus in the EU will help to bring about *enosis*. Thus, the threshold specified in the Treaty itself seems an insuperable barrier to Cypriot accession to the EU. And incidentally, for the three Professors to suggest that co-membership of other States will *water* down the existing ties between the two countries seems wholly unrealistic.

6. If I am correct in the above reasoning, there is no need, logically, to go any further, because my argument is already proven. But as a matter of fact I think one can go further, *ratione materiae* and *personae*, so to speak.

7. *Ratione materiae* because the EU is, at the very least, an economic union. Its former name, the "European Economic Community" made that clear enough, and now it has gone much further towards full economic, and a large measure of political, union. Although the name "European Union" is very apt in this particular case, but it is the *substance* of EU law which compels this conclusion. The EU would not need to be a full federal or unitary State to fall within the language of the Treaty of Guarantee, which prohibits participation in *any* union, political *or economic* (whole or partial), or steps towards it.

8. The Further Joint Opinion's attempts to circumvent this obvious fact, by asserting that economic associations were not covered by this prohibition, are unconvincing. It is true that, during the conversations which preceded the conclusion of the Treaty of Guarantee, the possibility of Cyprus joining associations like the European Coal and Steel Community or the European Free Trade Area was not ruled out. But, apart from the fact that the language of the Treaty of Guarantee as ultimately agreed is sufficiently clear,[4] there are two other answers to the point. First, like the UN, the bodies named were far looser associations than the EU. (Nor, indeed, were they organizations to which *either* Greece or Turkey belonged, so there was less of a

[4] And, indeed, paragraph 20 of my Further Opinion gives a fairer and more nuanced version of the drafting history than does the Further Joint Opinion.

threat of union by the back door.) Secondly, the constitutional arrangements which are themselves guaranteed by the Treaty include Article 50 of the Constitution of Cyprus, which clearly gave the leaders of each of the two ethnic groups a veto over membership of international organizations, including economic ones, unless both Greece *and* Turkey were members, which is not the case here.

9. The Further Joint Opinion's attempt to circumvent this by pointing out that there is a separate set of Final Provisions which *inter alia* reproduce parts of the Treaty of Guarantee is wholly unconvincing evidence that economic organizations are an exception: the provisions are complementary. And the attempt to bolster this weak argument by reference to Article 169 of the Constitution is spurious, as I had previously pointed out. First, the article is not concerned with membership *of* international organizations, but treaties *with* them, as well as treaties with other States on relatively minor or technical matters, namely "commercial matters, economic cooperation (including payments and credit) and *modus vivendi*", where parliamentary approval could be dispensed with. Membership of the EU certainly does not fall into that category. And secondly, Article 169 is *expressly* made subject to Art. 50, the relevant part of which (unlike Art. 169) is, furthermore, one of the "Basic" (unamendable) provisions of the Constitution.

10. The Further Joint Opinion is equally unconvincing *ratione personae*. *First*, as an example of their technique of putting words into my mouth, or of putting up a "straw man" which they can easily knock down, the authors tells us that the EU is not a State. I have made it entirely clear previously that that is not my position. My argument is that the EU is a *union of* States, which seems to me to be undeniable, both in terms of ordinary language and in terms of law. Not, perhaps, a full political union; but it is not just full political union that the Treaty prohibits. *Secondly*, they argue that "*any State whatsoever*" can only mean one single State (either Greece or Turkey), and not more than one. For reasons already explained in my previous Opinions, I dispute that this is the "ordinary" or necessary meaning of the language. Furthermore, whilst I myself pointed out that, whether a singular includes the plural depends on the context, (a) "whatsoever" militates against its just being Greece or Turkey; and (b), the context does not compel the interpretation advanced by the three Professors. Even if *enosis* with Greece was what was *primarily* envisaged, I have already pointed out that if Cyprus had sought union with, say, Malta, or indeed with the UK, it is by no means evident that the other Guarantors would have lacked the right to object. This would have been union with "any State *whatsoever*", and there might also have been policy reasons why this should be held to constitute a violation of the Treaty. And secondly, I have already suggested that if Cyprus had sought to join a union with both Greece and Malta, say, the other Guarantors would have been entitled to claim that this was a breach of the Treaty of Guarantee – again on both terminological and policy grounds. Thirdly, to enter the EU is to enter into an economic (and to some extent a political) union with other States, both severally and jointly: in other words, Cyprus would be entering into union both with another State (whatsoever) and with other States.

11. Paragraph 7(c) of the Further Joint Opinion takes my argument out of context. My reliance on Art. 50 of the Constitution was in order to help demonstrate that there is no foundation to the three Professors' argument that international economic organizations were outside the scope of the prohibition of union in the Treaty of

Guarantee. If it had been intended that they should not be covered, then Article 50, which is very detailed, would have made an exception for such bodies. Furthermore, there is a close link between the Constitution and the Treaty of Guarantee, as the authors themselves admit elsewhere (e.g. in paragraph 7(d) *in fine* and paragraph 11).

12. Paragraph 10 of the Further Opinion makes the point (virtually the only new one) that, in the absence of a Turkish Cypriot Vice-President, his veto cannot be cast and so the decision to accede is consequently valid and effective. This argument seems to ignore Article 52, which requires promulgation of any law or decision to take place within 15 days of *transmission to the respective offices* of the President *and* Vice-President. Presumably, there has been no transmission, so the condition precedent to publication has not been fulfilled. Moreover, it would certainly be contrary to the spirit, object and purpose of the provisions about the two communities' veto to say that, if one leader is prevented from exercising his veto, the whole arrangement can be treated as if had never existed.

13. Paragraph 7(d) is an egregious example of putting words into my mouth. Nowhere have I argued that, if Cyprus were to join the EU, "Greece or the UK would exercise authority in Cyprus as part of the EU". Indeed, I went out of my way in paragraph 24 of my Further Opinion to refute a previous attempt to set up and then knock down this "straw man". It is not (or, more precisely, not only) the exercise of authority over Cyprus by any other State which is prohibited by the Treaty of Guarantee, but union, economic or political, partial or total (or steps conducing thereto) - something much broader. The three Professors' definition of union is, with respect, a most peculiar one.

14. Paragraph 8 of the Further Joint Opinion further traduces my Opinion, by putting into my mouth more words I did not utter. My main point about the so-called Austrian "precedent" was not that the interested States clearly chose to waive a breach of Article 4 of the Austrian State Treaty in agreeing to Austria's membership in the UN. If matters had indeed been so clear-cut, I would have cited this case as a precedent *in favour* of my view. Instead, what I reported was the fact that there had been questions about the compatibility of membership with Austria's obligations under the State Treaty[5] but that in the end all parties agreed that Austria could join. In my view, given that the parties were capable of waiving any possible breach by Austria, this makes the example neutral: neither in favour of my argument nor against it.[6]

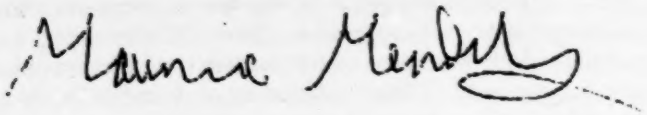
15. Incidentally, and *à propos* an earlier, similar problem with Austria, the Further Joint Opinion fails to deal with the point I made in paragraph 27 of my Further Opinion, which cites judicial support for my argument.

16. Paragraph 12 of the Further Joint Opinion begs the question whether the obligation embodied in Article 170 of the Cyprus Constitution - and also, as I previously pointed out, in Part II of Annex F of the Treaty of Establishment of 1960 - is a

[5] See e.g. footnote 32 of my Further Opinion.
[6] Incidentally, I also mentioned other possible bases for distinguishing the case of Austria from that of Cyprus.

"*general* MFN obligation of the entrant". And I repeat yet again: I am not arguing that Turkey has a current vested right to MFN treatment: just that it will not be possible, if Cyprus joins the EU, to conclude the anticipated treaty with Turkey to ensure that it obtains MFN treatment, and in any case treatment no less favourable than the UK and Greece.

17. I therefore see no reason to resile from the opinion which I previously expressed.



Maurice Mendelson, QC

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26 March 2002